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# Criminal Justice Systems: Impacts that Transcend Borders & Prison Bars

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Criminal Justice Systems:  
Impacts that Transcend Borders & Prison Bars

Written by Erika Yeager

Sponsored by Dr. Jill Doerner

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When almost eleven million people across the world live behind bars, individuals can begin to realize that incarceration is a global epidemic. International incarceration rates are increasingly on the rise, blatantly staring our populations in the face. Whether punitive, rehabilitative, or a combination of both, a country's criminal justice system is one of the most influential institutions that exists in their society. Keeping this in mind, it is obvious how a failing criminal justice system cannot only become ineffective but simply catastrophic. With a clear lack of effectiveness plaguing our globe and its inhabitants, it is crucial to evaluate systematic models of criminal justice in different countries. In order to work to solve this problem, I have gathered quantitative and qualitative research regarding imprisonment and rehabilitation not only across the globe but in seven specific countries for my analysis: United States, Germany, Netherlands, Australia, China, Thailand, and South Africa. By focusing on a culmination of characteristics, such as a nation's evolution of prison systems, policy, and statistics regarding incarceration/rehabilitation trends, I was able to get a more in-depth understanding of how these impact current criminal justice models. This paper takes this research a step further, asking how the current systematic method of response to crime in a given country influences the economic, social, political, and cultural climates. With this information and eventual comparison, I begin to wonder if staring at this issue through an international lens is effective, or should leaders be focusing on their own individual criminal justice systems? Regardless, I will provide methods for how we can potentially move forward by utilizing universal policy and initiatives to fix this epidemic.

Before analyzing these seven different criminal justice systems, it is crucial to establish a common understanding of what a criminal justice system is. According to an article written by the National Center for Victims of Crime (2008), a "criminal justice system is the set of agencies

and processes established by governments to control crime and impose penalties on those who violate laws" (NCVC 2008). Although every country across the globe has a unique set of methods, systematic mechanisms, and core fundamentals within their own criminal justice systems, it is established within this definition that governments have a responsibility to establish unitary actors, agencies, and processes that allow them to follow through with handling crime. By understanding this definition, readers can articulate the purpose of these systems and decide if they are successful. When analyzing criminal justice systems within countries, the incarceration rate is one of the most important variables to focus on. While reading *Incarceration Rates in an International Perspective* (2017), Mauer writes that "the incarceration rate is often interpreted as a measurement of the degree of punitiveness", measuring the degree of civilization in a society (Mauer 2017). As I transition into analyzing how incarceration impacts societies in general, this definition of a criminal justice system mentions controlling crime and imposing penalties on those who violate laws, but it fails to include neither rehabilitation nor any other components of criminal justice systems that aid offenders in returning to society. This sole focus on retribution and punitive measures is a large portion of analysis and discussion throughout the course of this paper, and it is clear it begins just with a simple definition. When talking about the impact of incarceration on any given society, I find it crucial to compare rehabilitation and imprisonment.

Although both are potential responses to criminal behavior, they each take vastly different approaches to handling crime and offenders. Rehabilitation focuses on counseling and alternative methods to controlling crime that do not include long-term prison sentences, sometimes no incarceration at all. According to recent research (2017), "A variety of research demonstrates that social intervention and substance-abuse treatment programs frequently

produce more substantial public safety outcomes than does expanded imprisonment" (Mauer 2017). This emphasis on mentally and emotionally preparing offenders to successfully re-enter society has not only proven better for individuals but for communities and societies as a whole, and some countries have successfully adopted these methods and improved their countries as a whole. These alternatives and rehabilitative measures were not only effective at saving money, but they also created much safer social conditions.

On the other hand, imprisonment focuses on locking up and punishing individuals, usually bereft of any acknowledgement that they could potentially re-enter society. In the same research and analysis conducted by Mauer (2017), he discusses the impacts of high incarceration rates, stating that higher levels of incarceration are actually counterproductive and contribute to an increase in crime. Moreover, they negatively impact socioeconomic conditions, by making it more difficult for offenders to find employment and contribute to society. His studies also showed that high levels of incarceration reflect a lack of informal social control mechanisms, which in turn causes "a decrease in healthy bonds among family and community members, negative impact on family formation and child rearing...and disruption of social networks and cohesion" (Mauer 2017). This emphasis on retribution not only creates economic tolls because of how expensive it is to keep individuals in prison or jail for long periods of time, but it also creates social tolls because it limits human relationships and community bonds. Different mixes of rehabilitation and imprisonment are what make individual countries so different in terms of approaches to criminal justice, and as I analyze the United States, Germany, Netherlands, Australia, China, Thailand, and South Africa, it will be clear which are more effective than others in how they influence economic, social, political, and cultural climates.

In general, over-incarceration is a phenomenon present across the globe. According to a study published by the Thailand Institute of Justice (2018), the causes of global increases in incarceration rates "can be linked to changes in criminal justice policies and practices such as mandatory sentencing and stringent bail conditions, as well as social, cultural, and economic factors such as levels of inequality, substance abuse, unemployment and social and community cohesion" (Thailand Institute of Justice 2018). As examine tremendous differences in incarceration rates in different countries, it is crucial to understand that countries with the highest rates are not this way because they are inherently more prone to crime. Legislation and social conditions are large influencers of incarceration rates. We as humans associate democracy with qualities such as freedom, human rights, and equality, but as well see, this is not always the case. With approximately more than eleven million people behind bars, it is not surprising that recent data showed that "the number of prisoners exceeds official prison capacity in at least 120 countries" (Thailand Institute of Justice 2018). Not only are the numbers of inmates increasing, but they are doing so at a rate that countries cannot keep up with. When maximum capacity is surpassed, it decreases the effectiveness, safety, and quality of prisons. This statistic shows that incarceration is being used far more than it was ever meant to, undermining criminal justice systems everywhere. It is not only occurring it one place but more than a hundred countries. Because of these facts, we are exposed to the urgency and importance of this conversation. Soon enough, leaders will not be able to ignore or overlook this global issue.

The first country I will analyze is the United States of America. When focusing on this country in particular, the statistics on its criminal justice operations and incarceration are quite incredible. One of the most astounding facts that puts the United States in a separate category from the rest of the world is that even though the United States makes up just 5% of the world's

population, it houses 25% of the world's prison population" (Weiss 2010). According to the World Prison Brief (2019), the Department of Justice is responsible for criminal justice in this country, with a prison system capacity of almost 2.2 million--the current occupancy level as of 2016 was 104% (World Prison Brief Data 2019). Despite having such a large systematic capacity level, the United States manages to exceed it, showing how prisons in America are bursting at the seams with inmates. When prisons are over capacity, their effectiveness decreases. With more inmates, running prisons becomes more expensive, more dangerous, and conditions worsen.

The United States allocates so many resources to incarceration that the country as a whole lost almost \$70 billion dollars from their GDP (Mauer 2017). The cost is not only physical, but this high incarceration rate undermines what America is supposed to represent. For more perspective on just how high the United States incarceration rate is, for every 100,000 people, 698 individuals are incarcerated (Wagner 2018). At first glance, this might not seem like an astronomical figure; however, this is almost two times the rate of the country with the next highest incarceration rate that I studied. An interesting component of this study is how as a society, we often associate this concept of democracy with freedom, an emphasis on human rights, and a sense of morality. America is even known as the 'Land of the Free'; when comparing us amongst nations that should inherently share these qualities, specifically the other founding NATO countries, the next closest country is the United Kingdom with 139 individuals incarcerated per every 100,000 people (Wagner 2018). This means that the U.S. has more than five times the incarceration rate when compared to its fellow founding NATO countries. As an alarming statistic, it shows just how skewed we are comparatively, especially from an international perspective. When many states within the United States have higher incarceration

rates than entire countries across the globe, it is apparent that action needs to be taken immediately to address a domestic crisis.

With the United States more so than other countries, it is imperative to analyze why the numbers are so drastic in terms of incarceration and imprisonment. By understanding causal mechanisms and variables, approaches can be evaluated in order to make change in the future. Wagner (2018) writes that "many of the countries that rank alongside the least punitive U.S states, such as Rwanda and Russia, have authoritarian governments or have recently experienced large-scale internal armed conflicts. Others struggle with violent crime on a scale far beyond that in the U.S.: El Salvador, Russia, Panama, Costa Rica, and Brazil all have murder rates more than double that of the U.S" (Wagner 2018). With this information, it is clear that the U.S. incarceration rate is not climbing due to the fact that we have higher crime rates. People are being arrested and put behind bars for crimes that potentially do not require jail time as a response, and law enforcement agencies and judicial systems are potentially using imprisonment too soon, too often, and for too long.

Mauer (2017) evaluates this cultural shift more in depth, associating this increase in incarceration rates to the fact that crime is now seen as opportunities for incapacitation and punishment instead of rehabilitation. I completely agree with this assumption, and key evidence can be observed through the transition of criminal justice policy and approaches to prison systems becoming huge political and party platforms. We have seen examples like the War on Drugs and 'tough on crime' policy that became polarizing and crucial issue in America. In addition to this cultural shift, there is also an economic incentive within the US prison system that must be considered. Although it is expensive from a national perspective, considering most criminal justice expenses come from the government and taxpayer dollars, it is vital to keep in



mind that individual/company investors and other executives within the prison systems make tremendous amounts of money off of the private prison systems in the US. The private prison system was almost a \$5 billion industry in 2014 (How Do Prisons Affect the Places We Live 2017). With this kind of money involved, it creates a relationship in which devastating incarceration numbers benefit a small percentage of wealthy individuals. When prisons become a business, it becomes clear that rehabilitation is not the goal.

In an academical journal article published by Weiss (2010), he focuses on this question of why the US incarceration rate is so high. Similar to previous sources, he also concludes that the cause of the isolating US numbers is not because of high crime rates; in fact, the numbers from the US are very similar to other Western democracies. He claims three factors as significant: less spending on social welfare programs, greater income inequality, and American policies/practices (Weiss 2010). These are extremely logical causal variables because they dramatically influence society as a whole. When inequality is high and the government is not as positively active in society like other countries, not only are certain populations in certain areas more likely to commit crime, but power struggles and corruption thrive. Wealthy individuals are able to control their fate while impoverished groups get caught in the crossfire, more likely to be locked in prisons for longer sentences while privileged groups do not face the same consequences. Overall, the U.S. is an entirely different beast, with towering incarceration rates and issues that plague the criminal justice system.

The second and third country I will analyze are Germany and the Netherlands. Due to tremendous similarities and consistencies, they are combined into this section. In terms of incarceration rates, Germany and Netherlands are both incredibly low, at 78 incarcerated individuals per 100,000 people and 59 per 100,000 people respectively (Wagner 2018). These

low numbers allow for prison populations and incarceration to be more easily controlled.

According to the Vera Institute of Justice (2013), "incarceration is used less frequently and for shorter periods of time in Germany and the Netherlands. Both countries rely heavily on fines or other community-based sentences, not prison sentences" (Vera Institute of Justice 2013). More specifically, in the Netherlands, 91% of prison sentences are one year or less. In Germany, 75% of prison sentences are one year or less. In comparison, the average U.S. prison sentence is three years (Vera Institute of Justice 2013). Shorter prison sentences have been proven to be more effective, especially when they are focused on rehabilitating inmates for when they get released. With longer terms, inmates lose a sense of purpose for life. As they become resentful and hopeless, it is clear that they are not being rehabilitated to contribute to society when, and if, they get out. If they get released, they are more likely to return because they were not prepared to re-enter the real world.

In Germany and the Netherlands, prison systems are focused "around central tenets of resocialization and rehabilitation", while U.S. systems focus on "incapacitation and retribution" (Vera Institute of Justice 2013). This critical philosophical difference is overwhelming; inmates and distributors of justice are allies in the German and Netherlands models, working to make 'imprisonment' as similar to life outside of prisons ("normalization"). This focus is so unique and effective because it focuses on the offender's return to life on the outside, humanely doing everything possible to put them in a position to succeed and heal, instead of taking away their meaning in life. A key question is if this kind of effectiveness is possible and has such positive benefits, why are other countries not on the same page?

For both of these countries to get where they are today, reform was necessary. Until recent changes, Germany embodied its imperial criminal justice system, which was defined as

"an instrument of authoritarian rule and class justice" (Wetzell 2014). Some of these specific aspects of reform that began in the 1970s are conditional discharge, fines instead of short-term prison sentences, suspension of prison sentences, and alternatives such as community service, mediation, restitution, and electronic monitoring (Meier 2004). Not only are these alternatives cheaper and reduce the number of inmates, but they are also better for society by focusing on improving mental health of offenders, getting them ready to be back in society. This representation of Germany's and the Netherlands' approach to criminal justice illustrates how influential policy and legislation changes completely transformed their identities, going from punitive to rehabilitative. For both countries, change was possible and crucial to their evolution as nations. Both Germany and the Netherlands represent what countries around globe should strive to embody in terms of criminal justice systems and effectiveness.

The fourth country I will evaluate is China. Being a communist country, evaluating China was interesting compared to other democracies that I studied. The incarceration rate within their borders is 118 incarcerated individuals per 100,000 people (Wagner 2018). This may seem like a small number for a known communist, aggressive country, but instead of classifying institutions as "prisons", Chinese leaders refer to them as "re-education-through-labor camps" to avoid high incarceration rates. According to the World Prison Brief Data (2019), there are 320 of these camps throughout China (World Prison Brief Data 2019). For many countries, organized systematic legal functions and models have existed for hundreds of years. However, in China, this concept of organized legal standards is fairly new, with no tangible set-up until 1979 (Guo n.d.). With this limited experience with an organized legal system, it is interesting to note that prisons, or 'camps', emphasize labor; across the board, Chinese law states that if you are able to work, you must.

This country profile represents another side of how incarceration can reflect a country's values, as their relatively low incarceration rate is not necessarily an accurate indicator of their human rights. In a recent article published by the State Department, it stated that "the Chinese criminal justice system is biased towards a presumption of guilt", with a first-time conviction rate above 99 percent (Bajoria 2008). When a country like China utilizes torture throughout the criminal justice process, in addition to its unlikeliness of proving an innocent is guilty, it is clear reform may be difficult. As Chinese citizens try to fight for the innocence of the people and petition for justice, their attempts may be futile as the communist regime regulates the media and constricts all aspects of society. Although leaders might say on an international podium that they are working to reform legal systems, a lack of action prevails. All of these conditions and factors lead to citizens living in fear of their government, with inconsistent social conditions and lack of trust.

In addition to these four nations, I also analyzed Thailand. Thailand has the second highest incarceration rate among the countries I analyzed, just behind the United States--483 per 100,000 people (Wagner 2018). Thailand has many issues and characteristics that set it apart from the other six countries. While the United States and other international organizations are working with Thailand to improve their models and ways of executing criminal justice, the Thai people face issues such as "the need for skills development for law enforcement, prosecutors, and the judiciary; access to justice issues for citizens; and combating a series of transnational organized crime issues, including trafficking in persons, narcotics, and wildlife" (U.S.D.S n.d.). No matter who is working with who, these are fundamental issues, and without them, any sort of substantial improvement is very difficult. Strengthening a system is hard enough when these things are in place, putting the country of Thailand at a huge deficit moving forward. Before

transforming their identity into one that portrays consistency and efficiency from a criminal justice standpoint, the Thai officials must fix a multitude of problems. Not only do they have the second highest female incarceration in the world, but they are under intense spotlight for horrific and even illegal prison conditions (Winn 2018).

As many committees are working to hold Thailand accountable, it makes it an even steeper uphill battle to gain support and resources to invoke a movement. More specifically, the United Nations, the UN Human Rights Committee, the UN Committee against Torture, and the UN Committee on Economic, Social, and Cultural Rights were all separate groups that seemed full of disdain and concern for the conditions of these prisons and prisoners throughout Thailand (Behind the Walls 2017). Overpopulation and grotesque living conditions are at the top of the list of main concerns, gaining international attention. At an official occupancy level of almost 150%, overpopulation is tremendously blatant (World Prison Brief Data 2019). A huge change in Thai incarceration patterns began to recently take shape in 2016, as Royal Pardons worked to address the amount of life imprisonment sentences and death sentences; the Royal family has a huge influence over these matters, and some researchers (2018) even wrote that "the best way to tilt public opinion is to receive the blessing of royalty" (Winn 2018). When the only way to make any sort of social justice progress is through royalty, obstacles may never cease to exist, forcing change to be slow and incremental at best. For example, although incarceration rates decreased post-Royal Pardons in 2016, they have been on the rise for the past year, showing the inconsistency and instability that may follow any sort of 'progress'.

The next country I selected for analysis is Australia. With an incarceration rate of 167 per 100,000 (Wagner 2018), they still face challenges. Their official prison capacity is less than 40,000 people, but their prison population has been at an increase since 2012 (World Prison

Brief Data 2019). An interesting dynamic exists when prison populations increase while crime rates do not. This situation means that outside variables are dictating incarceration patterns, disrupting social interactions and justice principles. According to the Australian Bureau of Statistics (2018), the imprisonment rate in Australia increased by 3% in less than one year (Australian Bureau of Statistics 2018). This jump is fascinating and seemingly without explanation; in the conversation about Australia's processes and systems of criminal justice, the question of what they are doing to address it is at the core of the conversation.

According to researched performed by Willis and Kapira (2018), Australia is one of the most recent countries to implement a program called justice reinvestment--"comprehensive strategy that employs targeted, evidence-based interventions to achieve cost savings which can be reinvested into delivering further improvements in social and criminal justice outcomes" (Willis 2018). Although this implementation is in the early stages of development, it represents a meaningful effort and step forward for the country. These programs are not cheap, increasing the risk even more. With concepts such as changes in policy, treatment programs for high-risk offenders, investing in certain neighborhoods with a large portion of high-risk offenders, focusing on local needs throughout different areas to identify the most pressing issues, and addiction/mental health programs (Willis 2018), this program definitely seems efficient and worth such an economic investment. Australian leaders and policy makers continue to diligently pay attention to how other areas across the world are using these programs in their societies, such as the United States. As I mention throughout both the beginning and end of this research paper, this is a great approach. Every other country can be used as important research, learning from their successes and failures before deciding how to address issues within your own criminal

justice system. Although it is still early in development, it will be interesting to see how Australia's programs develop and advance in the coming years.

The final country in this case study is South Africa. This country in particular has very little data due to their history and regime type, which tells researchers much about South Africa's limited development and capabilities. Their total occupancy level as of 2018 is alarming as well, just shy of 140% (World Prison Brief Data 2019). Conditions of prisons within South Africa have been declining and creating a cause for concern as they continue to become more overcrowded; although their official incarceration rate is only 280 per 100,000 people (Wagner 2018), their prison trend has been increasing within the past five years (World Prison Brief 2019). South Africa's background with apartheid and other criminal justice issues and experiences played a causal role within this area of study. With such a diverse and culturally relevant piece of history and development, it is worth it to understand how this potentially influences the leaders' and people's view on what it means to be imprisoned and what it means to have justice.

South African reform in this area of society began to take off in the late 1990s--mainly prison legislation being re-written and fixed to better suit the people; these reforms also implemented an idea called non-custodial "correctional supervision", which consists of focusing on high-risk offenders and criminals within their communities instead of within prisons (Justice System 2019). This shift in methodology not only represents tangible ways they adjusted their justice system (physical programs and different action being taken), but it also represents a change in how South African policy makers and implementers address crime as a whole. In addition to this change working to save money, it is preventative instead of reactive. It is too early in the transition and we as foreigners lack the data and experience to concretely dictate if it

has been a success. Although these efforts matter and could seemingly change the country, the budget for South Africa's criminal justice system rose from R5.9 billion to R28.5 billion in ten years, which is an annual average growth rate of almost 16 percent (Pelser 2001). This overwhelming increase in a budget for criminal justice definitely takes a toll on economic efficiency, detailing just how expensive true reform is. Reform, although an expensive investment, is sought to provide the country with long-lasting benefits, making this economic loss worth it in the long run. Successful criminal justice systems that are able to eliminate high incarceration rates through reform can lead to economic growth, increase in jobs, reduction in inequality, improvements in social development, and an increase in safety/effectiveness of communities.

Through the analysis of seven extremely unique and contrasting countries and their criminal justice models, I have declared that the gaping holes in society, in terms of addressing incarceration, are overwhelming. The United States metaphorically leads the pack, articulating that the issues will not be able to be changed overnight. However, it is clear that change is urgent. A global shift from punitive measures to rehabilitative focuses is the most effective way to turn this global incarceration epidemic around. Research and analysis shows that when societies, like Germany and the Netherlands, focus on rehabilitation and transitioning criminals back into everyday life, economic conditions improve due to job availability and flow of resources, social conditions improve due to a decrease in inequality and focus on the importance of community, political conditions improve because politicians have more time and resources to focus on issues people care about, and cultural conditions improve because individuals feel united with their leaders and policy makers, on the same page with what defines them as a country.



Whether North America, Europe, South America, Asia, Africa, or Australia, Weiss explains that one critical occurrence is key--policy makers accepting that high incarceration is a huge social problem (Weiss 2010). Once leaders acknowledge and accept the haunting reality, they will be ushered into a transforming wave filled with new norms, approaches to imprisonment, policy, etc. Regardless of how high any given country's incarceration rate is, countries have been able to effectively reduce incarceration statistics over time, finding a balance between crime control and reliance on incarceration, such as Germany.

This shift to rehabilitation, regardless of what country it is trying to be implemented within, ample amounts of time, money, and effort are required to change policy, foundations, and cultural/social views. According to the Thailand Institute of Justice (2018), criminal justice systems, and potential reforms, "affect nearly every aspect of the 2030 Sustainable Development Goals, including poverty, food security, human rights, health and well-being, education, social inclusion, gender equality, employment, environmental issues, human security, etc.," (Thailand Institute of Justice 2018). It is unrealistic to believe that this pressing issue is solely judicial or political; individuals have a tendency to think that high numbers of incarceration, especially from a global perspective, do not impact their lives, but it is clear this is not the case. Criminal justice policy and systematic functions impact everyone and everything, from economics, to social conditions, to political choices, and cultural climates. Not enough individuals have realized the cost of increasing prison trends, but soon citizens and leaders will have no choice but to reap the potential negative outcomes, forced to find alternative methods.

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